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In the High Court of Punjab & Haryana at Chandigarh.

Date of decision : 6.11.2006.

Jagdish Chand .... Appellant.

vs

Avtar Singh .....Respondent.

Coram Hon'ble Ms. Justice Kiran Anand Lall.

Present: Mr.Paramjit Singh Jammu,Advocate,for the appellant.

Kiran Anand Lall, J.

The trial court as well as the first appellate court have decreed the suit of the respondent, for recovery of Rs.90,000/- as principal amount and Rs.14,400/-, as interest from February 1999 to May 2000, at the rate of 1% per month (i.e. total Rs.1,04,400/-). The pendente-lite-interest was, however, granted at the rate of 9% per annum and future interest, at the rate of 6%per annum, by the trial court, whereas the first appellate court granted a uniform rate of interest from the date of institution of suit till the realisation of decretal amount, viz. 6% per annum.

The appellant, who is a veterinary doctor, was posted at Veterinary Hospital, Kuttabadh, Tehsil and District Sirsa, at the relevant time. The case of respondent is that he was on good terms with him (appellant). He, therefore, lent Rs.1,25,000/- to him, for a period of three months, as he was to repay the loan which he had taken from others, for his daughter's marriage. On expiry of this period, he demanded his amount back. Instead of returning it, the appellant took one month more, for doing the needful. But, when even after one month, the appellant did not return the amount and instead, flatly refused to do so, the respondent reported the

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matter to the village panchayat, whereupon a panchayat meeting was convened wherein it was decided that the appellant would pay Rs.1,00,000/-, in all, to the respondent, in monthly instalments of Rs.5000/- each, and he would also execute a pronote in this regard, which would be retained by the Sarpanch. A writing dated 12.11.1998 was also brought into existence, in this regard, which was signed by both the parties and the panchayat-members. Thereafter, the appellant paid two instalments, and refused to pay the remaining. The respondent, then, served a legal notice on him, and as the same remained un-replied, he filed the recovery suit.

The appellant contested the suit, denying having borrowed any amount from the respondent. According to him, on 12.11.1998, Up-sarpanch Jaswant Singh had met him and Sohan Lal, in the village and obtained their signatures on blank papers, on the pretext that the villagers wanted to apply to the B.D.P.O. and D.C. Sirsa for construction of streets in the village. He denied having paid any instalment of loan amount to the respondent on 10.12.1998, or on some other date.

Parties went to trial on the following issues:-

1. Whether the plaintiff is entitled to recovery of Rs.1,04,400/- as alleged ? OPP
2. Whether the plaintiff is entitled to charge interest, if so at what rate ? OPP
3. Whether the suit is not maintainable? OPD
4. Relief.

Both sides led evidence in support of their respective averments. The trial court recorded findings on all the issues in favour of the respondent, and decreed the suit. The first appellate court also agreed

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with the trial court on all the points but reduced the rate of pendente-lite-interest from 9% to 6% per annum.

The defendant-appellant is, now, before this court, in regular second appeal. But, after hearing the learned counsel, I have not been able to find any substantial question of law which may call for determination, at the hands of this court. The execution of Ex.P1, by the appellant, on 12.11.1998 in a panchayat meeting, stands duly proved on the basis of the testimony of the respondent and his two witnesses, Jaswant Singh Up-sarpanch (PW2) and Kashmir Singh (PW4). In fact, the appellant himself also, while appearing as DW1, admitted his signatures on Ex.P1 and also the fact that date "12.11.1998", under his signatures, was also in his hand. But, inspite of that he refused to own the contents of the document (Ex.P1). He, it may be mentioned, is not only a highly literate person but is a public servant, as well. He was holding a responsible post of veterinary doctor, in a Government veterinary hospital, at the relevant time. The first appellate court has rightly observed that it is unbelievable that a person holding such a responsible post would put his signatures on a blank paper. Besides, it may also be noted that undisputedly, the appellant had lodged an FIR, copy Ex.P6 (in Police Station, Rania) against the respondent and others, regarding an assault opened on him, and in that, he had admitted that he owed Rs.1,00,00/- to Avtar Singh respondent and since he could not pay the instalments thereof, in pursuance of a decision taken by the village panchayat, in that regard, the respondent and his son had caused injuries to him. He had, thus, clearly admitted his liability to pay Rs.1,000,00/- to the respondent, not only in the writing, Ex.P1, executed before the Gram Panchayat, but also in the FIR lodged by him, Ex.P6.

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In view of the above, no fault can be found with the judgments of the courts below. The appeal shall, therefore, stand dismissed, in limine.

6.11.2006. (Kiran Anand Lall)
vs. Judge.